

REMARKS

Status of the Claims

Claims 1, 3-5 and 8-11 are pending. Claims 1, 8 and 11 have been amended and claims 2, 6 and 7 have been cancelled.

No New Matter has been Added

Applicants submit that no new matter has been added by way of the present submission. For instance, claim 1 has been amended to include textual subject matter taken from originally filed claims 2, 6 and 7, now cancelled. This subject matter is also supported by the present specification, for example, illustrative reference is made to page 4, lines 10-20, and page 9, line 14 to page 10, line 3. Also, the dependency of claims 8 and 11 has been changed due to the cancellation of claim 6. Accordingly, no new matter has been added.

No New Issues have been Raised

Applicants submit that no new issues have been raised by way of the present amendments. For instance, the subject matter of claims 2, 6 and 7 was already searched and considered. Therefore, placing this subject matter into claim 1 does not present the Examiner with the burden of additional search and/or consideration. Therefore, no new issues have been raised.

In the event that the present submission does not place the application into condition for allowance, entry thereof is respectfully requested as placing the application into better form for appeal.

Objections to the Claims

The Examiner has objected to claims 1 and 6 alleging that these claims require specific line indentations. Applicants traverse and submit that claim 1 includes all relevant line indentations. Also, claim 6 has been cancelled. Therefore, this objection is moot. Reconsideration and withdrawal thereof are respectfully requested.

Obviousness-Type Double Patenting

The Examiner has rejected claims 1-11 under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 1-19 of Sugimoto et al., U.S. Patent No. 6,838,510 (Sugimoto '510) in view of Baba (JP 01-40566 A) and Malm et al. (USP 6,017,989). Applicants respectfully traverse this rejection.

The Present Invention and its Advantages

The present invention relates to a resin composition for automotive parts and is defined by claim 1. In claim 1, Applicants have now specifically defined a particular aspect of the present resin, the elastomeric polymer (b). Applicants have also specifically defined the amount of aluminum flake pigment in the present resin. This elastomeric polymer and the amount of aluminum flake pigment have been specifically defined in claim 1 to provide a specific resin composition for automotive parts. The specifically defined resin composition for automotive parts of the present invention shows excellent mechanical strength, physical properties and flowability, and enables the production of molded products showing a good metallic appearance. Also, the combination of the specific polymer components and the aluminum flake pigment, which surface is coated with a specific polymer, show an excellent and uniform compatibility. Therefore, the resin composition exhibits high mechanical strength and flowability of the

propylene polymer composition, and displays a metallic appearance and brightness on the surface of molded articles. Accordingly, the surface appearance of molded articles produced from the present composition is excellent.

Applicants further emphasize that in the combination of specific polymer components and the specific aluminum flake pigment, agglomeration of the aluminum flakes is remarkably reduced as shown in Example 1 and Comparative Example 1 in the specification.

Distinctions Between the Present Claims and the Cited References

The prior art is completely silent concerning the presently claimed combination of specific polymer components and specific aluminum flake pigment. The present claims require a combination of elements including a very specific propylene polymer composition (note the specific definitions for each component of this composition) and also require aluminum flake pigments having a specific coating and being present in a specific amount. The prior art simply does not suggest this subject matter. Without such a suggestion that the very specific aspects of the present claims be adopted, there can be no case of obviousness. For this reason alone, the present obviousness-type double patenting rejection is improper and should be withdrawn.

Additionally, Applicants point out that previously argued distinction must still be addressed by the Examiner. For instance, although Sugimoto '510 discusses a resin composition for automotive parts, there is no indication in Sugimoto '510 that the presently claimed elastomeric polymer (b) should be selected. Also, Sugimoto '510 fails to suggest or disclose the addition of the presently claimed aluminum flake pigment. The Examiner has attempted to cure this deficiency by referring to Baba and Malm. However, even if these teachings are combined, the present invention cannot be achieved or expected. For instance, there is still no motivation to select the present elastomeric polymer (b).

Also, although Baba discusses an aluminum flake coated with a copolymer and the use thereof in a metallic coating on plastics, a pigment for metallic ink or adhesives, and a filler for compounding in synthetic resins, Baba fails to suggest or disclose that an aluminum flake would provide the advantageous properties achieved by the present invention. The other secondary reference of Malm discloses an exterior automotive component of an elastomeric modified polyolefin material having a pleasing appearance. The disclosed polymer material includes a polyolefin component and a thermoplastic elastomer or rubber. Malm suggests at column 7 that a variety of special effect flake pigments may be employed. The stated flake pigments include aluminum flake pigment among a number of other types of pigments. Malm discloses that the aluminum flake may be surface treated (see column 7, lines 40-42). However, Malm is silent regarding the coating of such aluminum flake with a polymer composition as claimed.

Applicants submit that there exists no motivation to select a specific aluminum flake pigment (having a coating of a polymer containing as constituent units acrylic acid, an acrylic acid ester, epoxylated polybutadiene and divinylbenzene in the specific amounts presently claimed) from the secondary references of Baba and Malm and then modify the primary disclosure of Sugimoto '510. There is simply no motivation to make such a modification. Therefore, the present obviousness-type double patenting rejection is improper.

Additionally, even if there hypothetically would exist motivation to modify Sugimoto '510 as suggested by the Examiner, a point not conceded by Applicants, the present invention achieves unexpectedly superior results. Thus, any hypothetical case of obviousness is moot. For instance, the Examiner is urged to review the results illustrated in the present specification. By utilizing the presently claimed combination of specific polymer components and specific aluminum flake pigment, the agglomeration of the aluminum flake is remarkably reduced. This is evident from a review of Example 1

and Comparative Example 1 of the present specification. The reduced agglomeration of the aluminum flake is unexpected over the prior art. Also, by way of the present amendments, these results are fully commensurate with the subject matter claimed. Therefore, the obviousness-type double patenting rejection is improper and should be withdrawn.

Issues under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-11 under 35 U.S.C. §103(a) as being obvious over Sugimoto '510 in view of Baba and Malm. Applicants respectfully traverse this rejection.

The present application claims priority to Japanese application JP 242216/2002, filed on August 22, 2002. Attached hereto is a verified English language translation of JP 242216/2002. The presently pending claims are fully supported therein. Accordingly, Applicants avail themselves of the earlier Japanese filing date of August 22, 2002 and therefore remove the teachings of Sugimoto '510.

Applicants note that Sugimoto '510 is a U.S. Patent based on the National Stage filing of International Application PCT/JP02/04936, filed after November 29, 2000 and which did not publish (International Publication) in English. Therefore, Sugimoto '510 does not have a 35 U.S.C. § 102(e) date. Similarly, the U.S. Application Publication of Sugimoto '510 also lacks a 35 U.S.C. § 102(e) date. However, it appears as though some corresponding disclosures have relevant 35 U.S.C. § 102 (a) dates. For instance, the corresponding PCT publication of Sugimoto '510 (WO 02/094933, published in Japanese) and the corresponding U.S. Publication (US 2003/0176554) qualify as prior art under 35 U.S.C. §102(a) in the present §103(a) rejection. These §102(a) prior art dates are later than the present priority application JP 242216/2002, filed on August 22, 2002. Therefore, the November 28, 2002 publication date of WO 02/094933 and the September 8, 2003 publication date of US 2003/0176554 are be removed as references under 35 U.S.C. §102(a)/103(a) by the present filing of a verified English

language translation of JP 242216/2002. Accordingly, this rejection is moot.

Alternatively, this rejection is improper for the same reasons discussed above under the "obviousness-type double patenting" section. Reconsideration and withdrawal thereof are respectfully requested.


In view of the above, Applicants respectfully submit that the present claims define allowable subject matter. Therefore, the Examiner is requested to withdraw all rejections and allow the currently pending claims.

If the Examiner has any questions or comments, please contact the undersigned at the offices of Birch, Stewart, Kolasch & Birch, LLP at the number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By  #42-874/

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Attachment: Verified English language translation of JP 242216/2002